



General Assembly

February Session, 2000

Amendment

LCO No. 4125

Offered by:

REP. TULISANO, 29th Dist.

To: House Bill No. 5613

File No. 87

Cal. No. 113

***"An Act Concerning The Storage Of Weapons By The
Department Of Correction."***

1 In line 1, before "Section" insert "Section 1."

2 After line 6, add the following:

3 "Sec. 2. Subsection (b) of section 18 of public act 99-212 is repealed
4 and the following is substituted in lieu thereof:

5 (b) A warrant may issue only on affidavit sworn to by the
6 complainant or complainants before the judge and establishing the
7 grounds for issuing the warrant, which affidavit shall be part of the
8 seizure file. In determining whether grounds for the application exist
9 or whether there is probable cause to believe they exist, the judge shall
10 consider: (1) Recent threats or acts of violence by such person directed
11 toward other persons; (2) recent threats or acts of violence by such
12 person directed toward himself or herself; and (3) recent acts of cruelty
13 to animals as provided in subsection (b) of section 53-247 by such
14 person. In evaluating whether such recent threats or acts of violence
15 constitute probable cause to believe that such person poses a risk of

16 imminent personal injury to himself or herself or to others, the judge
17 may consider other factors including, but not limited to (A) the
18 reckless use, display or brandishing of a firearm by such person, (B) a
19 history of the use, attempted use or threatened use of physical force by
20 such person against other persons, (C) prior involuntary confinement
21 of such person in a hospital for persons with psychiatric disabilities,
22 and (D) the illegal use of controlled substances or abuse of alcohol by
23 such person. If the judge is satisfied that the grounds for the
24 application exist or that there is probable cause to believe that they
25 exist, such judge shall issue a warrant naming or describing the
26 person, place or thing to be searched. The warrant shall be directed to
27 any police officer of a regularly organized police department or any
28 state police officer. It shall state the grounds or probable cause for its
29 issuance and it shall command the officer to search within a reasonable
30 time the person, place or thing named for any and all firearms. No
31 arrest of a person shall be made on the basis of information or evidence
32 obtained as a result of the execution of a search warrant issued
33 pursuant to this subsection, except that (i) a warrant for the arrest of
34 such person may be issued based upon independent information or
35 evidence and upon a finding of probable cause that such person has
36 committed or is committing an offense, (ii) an arrest may be made
37 based upon exigent circumstances, or (iii) an arrest may be made based
38 upon evidence in plain view. For the purposes of this subsection, an
39 item is in plain view when it may be viewed by a nonintrusive
40 observance of the premises. A copy of the warrant shall be given to the
41 person named therein together with a notice informing the person that
42 such person has the right to a hearing under this section and the right
43 to be represented by counsel at such hearing."